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ATTORNEY DOCKET NO. HAR66 823

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Patent Application of: Henrik F. BERNHEIM

Confirmation No.: 5269

Serial No.: 09/893,431

Art Unit: 2616

Filed: 29 June 2001

Examiner: Rhonda L. Murphy

Title: SYSTEM AND METHOD FOR PROVIDING A COMMUNICATION SYSTEM
CONFIGURABLE FOR INCREASED CAPACITY

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant respectfully requests review of the final rejection in the above-identified application in view of the following remarks.

REMARKS

I. The Office's Rejection of Claims 1, 9, 11, 13-16, 18-22, 26, 27, 38, 46, 48, 50-53, 55-59 and 63 under 35 U.S.C. § 102(b) is improper as Foster does not disclose each and every element in the claims.

1. The Office states "Figure 7 of the Foster reference illustrates a bus structure; the bus structure is shown as the communication lines between CPU 260 and modems 240 and 700. More specifically, the communication lines are connected from QAM modulator 731 and QAM demodulator 711 in modem 700 and QAM modulator 730 and QAM demodulator 710 in modem 240, to CPU 260. This bus structure is adapted to accept multiple modems to provide plural levels of communication capacity between the hub and nodes (col. 10, lines 20-24)." *See* Office Action 7/24/07 p.2.

2. It is clear error for the Office to assert that Figure 7 of Foster and the supporting paragraphs thereof disclose a bus structure. *See* Applicant's Amendment 5/7/07 pp. 16-18.

The Office states that the lines from the CPU 260 to the QAM modulators 731, 730 and QAM demodulators 710, 711 are a bus structure as illustrated in Figure 7. *See* Office Action 7/24/07 pp. 2, 4. There is no disclosure in the detailed description of Figure 7 or in the supporting paragraphs of Foster which support the Office's conclusion that a "line" from the CPU 260 to modulators and demodulators is a bus structure. *See* Foster, Col. 10, line 28 - Col. 11, line 10. For the benefit of the Office, Figure 7 is reproduced below.

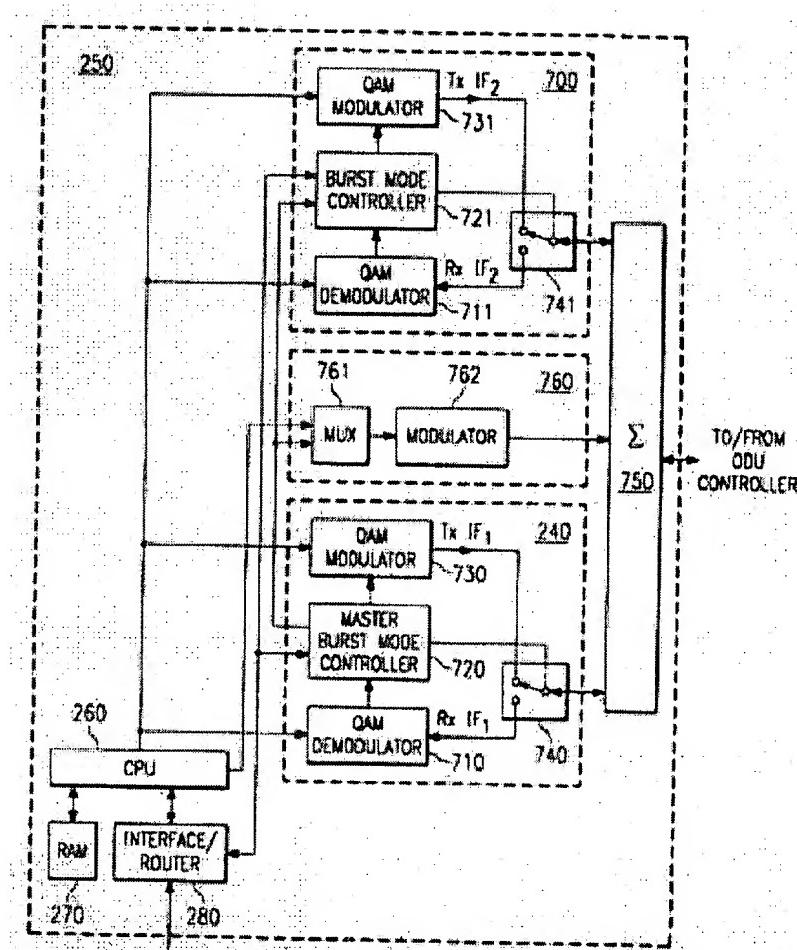


FIG. 7

3. Paragraphs [0056] to [0060] of the subject application provide support for Applicant's claimed bus structure. For example, paragraph [0057] recites:

It should be appreciated that expandable bus structure 700 includes a plurality of open expansion slots to accept additional boards in providing system configuration alteration according to the present invention. For example, directing attention to FIG. 8, expandable bus structure 700 can be seen having had additional moderns installed therein, shown as moderns 811,812, and 813. Accordingly, the configuration shown in FIG. 8 provides increased capacity by coupling each of radio modules 121-124 to a respective modern 710 and 811-813. See paragraph [0057], App. S/N 09/893,431.

The bus structure, as claimed, provides an expandable capacity without alteration of the respective communication controller. *See* paragraph [0058], App. S/N 09/893,431.

4. Foster must add additional circuitry to the system to increase capacity.

Foster states that increased capacity requires adaptation of the IDU controller 250.

See Foster, at 10:24-27. Foster also requires additional modifications to circuitry to the ODU controller 230:

It shall be appreciated that increasing capacity by adding multiple modems to IDU controller 250 requires circuitry in ODU controller 230 in addition to the switch enabling TDMA access to a single data stream of one modem discussed above. Attention is now directed toward FIG. 8 wherein ODU controller circuitry corresponding to the inclusion of multiple modems within IDU controller 250 is shown. *See* Foster at 11 :6-13 (emphasis supplied).

See Applicant's Amendment 5/7/07 pp. 17-18. Foster discloses the need for modifications to the ODU and IDU controllers 230, 250 and the "line" from the CPU 260 to the modulators/demodulators is merely just that, a line showing data flow rather than a bus structure, as claimed. Thus, it is clear error to maintain a rejection of Claims 1, 9, 11, 13-16, 18-22, 26, 27, 38, 46, 48, 50-53, 55-59 and 63 under 35 U.S.C. § 102(b) premised upon Foster.

II. The Office failed to address each and every element of independent Claim 38.

In the Office Action, the Office summarily rejected all elements of independent Claim 38 while referencing the elements of Claim 1. *See* Office Action 7/24/07 pp.3-4. Thus, the Office failed to demonstrate and establish that Foster teaches each and every element of Claim 38, specifically, the element of "**expanding said bus structure to accept plural communication signal processors and operatively connect said plural**

communication signal processors to said communication controller to thereby provide plural levels of communication capacity between the hub and the plural nodes.” (emphasis supplied). *See* Applicant’s Amendment 5/7/07 pp. 16-18.

III. Conclusion

The Applicant requests review of the Final Rejection and withdrawal of the rejections in view of the above comments and the Applicant’s amendment of 5/7/07.

Respectfully submitted,



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